

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Moss	Team: Squad #13	CCRB Case #: 201907967	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/07/2019 11:40 AM	Location of Incident: West 117th Street between 5th Avenue and Lenox Avenue	Precinct: 28	18 Mo. SOL 3/7/2021	EO SOL 10/22/2021	
Date/Time CV Reported Sun, 09/08/2019 2:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 09/08/2019 2:56 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Creel Brown	14622	955770	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Xin Zhang	25720	962888	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Creel Brown	Abuse: Police Officer Creel Brown stopped § 87(2)(b)	
B.POM Creel Brown	Abuse: Police Officer Creel Brown questioned § 87(2)(b)	
C.POM Creel Brown	Abuse: Police Officer Creel Brown searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On September 8, 2019, § 87(2)(b) filed this complaint on the CCRB's website on behalf of herself and her daughter, § 87(2)(b).

On September 7, 2019, at approximately 11:40 a.m., § 87(2)(b) and § 87(2)(b) observed what they believed was suspicious behavior in a parking garage located at 24 West 117th Street in Manhattan. The women drove out of the garage and double-parked, blocking vehicular traffic, next to a marked NYPD van parked on West 117th Street between 5th Avenue and Lenox Avenue. § 87(2)(b) exited her vehicle and approached the van to explain what she had seen to Police Officer Creel Brown of the 28th Precinct. PO Brown told § 87(2)(b) that there were no actions he could take based on her allegations. § 87(2)(b) walked back to her vehicle and made a comment either about police generally or PO Brown specifically. PO Brown ordered § 87(2)(b) to produce her identification (**Allegation A: Abuse of Authority – § 87(2)(g)**), and he also allegedly asked § 87(2)(b) if she had a driver's license (**Allegation B: Abuse of Authority – § 87(2)(g)**). PO Brown's head and upper-body allegedly entered through the vehicle's window when he spoke with the women (**Allegation C: Abuse of Authority – § 87(2)(g)**). PO Brown ultimately allowed both women to leave and informed his partner, Police Officer Xin Zhang of the 28th Precinct, about the encounter. No arrest or summons resulted from this incident. § 87(4-b), § 87(2)(g)

The investigation obtained video footage of the incident from parking garage surveillance cameras (**BR 1**). There is no BWC footage of this incident. PO Brown improperly did not turn on his BWC (see OMN), and the nature of PO Zhang's involvement in the incident did not require his use of BWC as per the Patrol Guide.

Findings and Recommendations

Allegation A – Abuse of Authority: PO Creel Brown stopped § 87(2)(b)

The following facts are undisputed: On the morning of September 7, 2019, § 87(2)(b) stopped her vehicle in the middle of West 117th Street between 5th Avenue and Lenox Avenue to inform PO Brown of what she believed was suspicious behavior in a public parking garage. PO Brown, who was stationed in a marked NYPD van outside a community basketball event, did not think § 87(2)(b) alleged anything that he could investigate. As § 87(2)(b) spoke with PO Brown, her vehicle blocked other vehicles from passing on West 117th Street. Several vehicles lined up behind hers, and at least one motorist exited his vehicle to ask what was going on. After a few minutes of conversation, § 87(2)(b) walked back toward her vehicle and got inside.

§ 87(2)(b) and § 87(2)(b) both testified that when § 87(2)(b) got back into her vehicle, she called PO Brown an "ass" or an "asshole" (**BRs 2 and 3**). PO Brown heard the comment, turned around, and ordered § 87(2)(b) to produce her driver's license.

PO Brown testified that when § 87(2)(b) began to walk back toward her vehicle, she was free to leave, even though she was guilty and could have been summonsed for obstruction of vehicular traffic, idling, double parking, and disorderly conduct (**BR 4**). He clarified that her behavior constituted disorderly conduct because her vehicle blocked vehicular traffic on West 117th Street. PO Brown further testified that § 87(2)(b) was no longer free to leave after she made a comment that he found "blasphemous" and "defamatory." He could not recall what the comment was, but he believed that § 87(2)(b) used the word "fuck" and said something general about the ineptitude of police officers. When § 87(2)(b) made the comment, PO Brown

approached her vehicle and ordered her to produce her license. He ran her license on his NYPD phone and saw that it was not suspended and that she did not have any active warrants, so he allowed her to leave.

Footage from parking garage surveillance cameras confirms that § 87(2)(b) double-parked her vehicle next to PO Brown's van, and that this prevented vehicular traffic from passing on West 117th Street (**BR 1**).

It is a violation of New York's Vehicle and Traffic Laws to "stop, stand, or park a vehicle" on the roadway side of a vehicle that is "stopped, standing, or parked at the edge or curb of a street." NY Veh & Tr §1202 (**BR 5**). A person is guilty of disorderly conduct when, "with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof," she "obstructs vehicular traffic." NY CLS Penal § 240.20 (**BR 6**).

§ 87(2)(g)

Allegation B – Abuse of Authority: PO Creel Brown questioned § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both testified that when PO Brown ordered § 87(2)(b) to produce her driver's license, she began to search for it in her purse but was not immediately able to locate it. While § 87(2)(b) searched for her license, PO Brown asked § 87(2)(b) who was seated in the passenger seat, if she had a driver's license. § 87(2)(b) did not know why PO Brown asked her this. Before she could answer, § 87(2)(b) located her license and handed it to PO Brown, at which point he walked away with it. § 87(2)(b) did not provide her license to PO Brown.

PO Brown acknowledged § 87(2)(b)'s presence during this incident, but he did not recall if he said anything to her. When asked in his CCRB interview if he requested § 87(2)(b)'s license at any point in the encounter, PO Brown replied, "Not that I recall. No, there would have been no reason for me to ask for her ID whatsoever, none" (**BR 4**).

PO Zhang denied witnessing this incident and said that he was instead focused on the large and loud crowd at the community basketball event that the officers were detailed to (**BR 7**). PO Brown only approached PO Zhang after the incident and briefly told him about it. PO Brown did not mention anything to PO Zhang about § 87(2)(b) or questioning her about her driver's license.

There is no BWC footage of this incident and footage from parking garage surveillance cameras has no audio (**BR 1**).

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Creel Brown searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) and § 87(2)(b) testified that when PO Brown approached their vehicle and ordered § 87(2)(b) to produce her license, he stuck the entire upper-half of his body inside the vehicle through the front passenger window. § 87(2)(b) who sat in the front passenger seat, had to lean backwards to get away from PO Brown. The women estimated that when PO Brown was inside their vehicle, he was between five and ten inches away from § 87(2)(b)'s face.

When asked in his CCRB interview if he leaned his body into § 87(2)(b)'s vehicle, PO Brown responded, “I don’t recall ... I believe she was already in the car when I asked for the ID ... so I probably had to at some point lean down because I am taller than most sedans.”

PO Zhang testified that he observed no part of this interaction.

At the 17:52 minute mark of the parking garage surveillance footage timestamp, visible at the bottom of the screen, PO Brown stands at the top-center portion of the screen and leans down by the passenger side of § 87(2)(b)'s grey Toyota Prius (**BR 1**). Due to the camera angle and distance from the interaction, the footage does not conclusively depict whether PO Brown’s body enters the vehicle through the passenger-side window.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (**BRs 12 and 13**).
- PO Brown has been a member of service for six years and has been a subject in seven other CCRB complaints comprised of 12 allegations, none of which were substantiated. § 87(2)(g) (BR 14).

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) agreed to mediate this complaint and it was sent to ADR on December 12, 2019, but it was returned for an investigation on March 12, 2020.
- As of March 23, 2020, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the New York City Comptroller's Office regarding this incident (**BR 17**).
- According to the Office of Court Administration, § 87(2)(b) and § 87(2)(b) have no history of convictions in New York City (**BRs 15 and 16**).

Squad No.: 13

Investigator:	<u>William L. Moss</u> Signature	<u>Inv. Will Moss</u> Print Title & Name	<u>09/25/20</u> Date
Squad Leader:	<u>IM Laura Kastner</u> Signature	<u>IM Laura Kastner</u> Print Title & Name	<u>09/25/2020</u> Date